



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
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April 3, 2014

BY ECF

Honorable Jesse M. Furman
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: United States v. Wells Fargo Bank, N.A., 12 Civ. 7527 (JMF)

Dear Judge Furman:

We write respectfully on behalf of all parties in accordance with the Court's Order dated March 24, 2014 (the "Order"), regarding Defendants Wells Fargo Bank, N.A.'s ("Wells Fargo's") and Mr. Lofrano's (together, "Defendants") requests for discovery relating to HUD Direct Endorsement Lenders ("DELs") other than Wells Fargo. *See* Dkt. Nos. 88, 89, 98.

Since the Court issued the Order, the parties have met and conferred three times, including an in-person meeting on March 31, 2014, regarding discovery requests that seek information about other DELs. In addition, Government counsel has conferred numerous times with individuals at HUD in order to research the nature and existence of information and materials responsive to the discovery requests at issue.

At this time, the parties have reached general agreement on the scope of the Government's production with respect to certain of the discovery requests subject to the Order. In particular, for some of the requests and for portions of others, after considering the nature of information and materials responsive to those requests, the parties have agreed that the burden analysis tilts in favor of the Government producing responsive, non-privileged documents without limitation, rather than limiting the production to a subset of DELs or a subset of custodians. With respect to the remaining requests, Defendants have identified additional facts that would enable the parties to fully assess any burden and, where appropriate, to agree on particular limitations. Regarding these requests, the Government is undertaking to obtain from or confirm with HUD the necessary burden-related facts, including (1) where the information is located; (2) how it is stored and organized (*e.g.*, hard copy or electronic, and if electronic, whether the data are searchable or can be readily converted to a searchable platform); (3) the size of certain information; and (4) the likely custodians of the information. The Government has informed Defendants that it is working to obtain this information, and, to the extent it is reasonably available, the Government will provide it to Defendants. In addition, the Government will provide Defendants with a list of the top DELs (measured by origination volume) for each of the years in question (2001-2010) so Defendants can evaluate reasonable limitations on the Government's production.

In light of the parties' efforts and progress to date in complying with the Court's Order and given that the Government is working to gather requested information relating to the Government's claimed burden and burden-alleviation proposals, the parties respectfully request that they be afforded additional time to meet and confer and try to reach agreement on the remaining discovery requests at issue. The Government intends to provide the necessary information to Defendants by April 10, 2014. Accordingly, the parties propose that they be required to submit another joint letter to the Court by April 15, 2014, updating the Court as to the parties' efforts in this regard and as to the nature of any remaining disagreements.

Respectfully submitted,

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